IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Second Appeal No. 623 of 2001
(Old No. 1001 of 1989)

The State.

..... Appellant

Versus

Ram Awatar & another

..... Respondents

Mr. R.C. Arya learned Standing Counsel for the appellant.
Mr. Lok Pal Singh, Advocate for the respondents.

Hon. Prafulla C. Pant, J.

Heard learned Standing Counsel and learned counsel for the respondents / plaintiffs.

2) This appeal was filed before the Allahabad High Court in the year 1989. The preliminary objection raised by the learned counsel for the respondents is this that the appeal has been filed without impleading the other defendants / respondents in this appeal. From the perusal of record, it appears that an application was moved before the Allahabad High Court in the year 1991 for impleadment of Gaon Sabha, but the same was rejected by the Allahabad High Court on 3rd of April, 1991.

3) Learned counsel for the respondents / plaintiffs made a statement that a S.L.P. No. 10518 of 1990 against said order has also been dismissed by the Apex Court on 05.12.1991. There were as many as 11 other defendants apart from the present appellant, who were contesting the Original Suit No.

181 of 1977, at the time when the trial court passed the decree. The Civil Appeal No. 21 of 1985 was decided on 26.08.1987. None of the said 11 defendants have been impleaded in this appeal. Perusal of the record further shows that the appellant's case is this that the land belongs to Gaon Sabha. In view of the above development, particularly, the order passed on 03.04.1991 by the Allahabad High Court, the appeal as against only the plaintiffs doesn't appear to be maintainable as Gaon Sabha has not been impleaded by the appellant. In order dated 03.04.1991, the Allahabad High Court has observed that none on behalf of the appellant remained present nor was interested in the question of impleadment of Gaon Sabha.

4) Apart from the above fact, there appears no substantial question of law involved in this appeal.

5) Though, the pleading on jurisdiction is raised in the memo of appeal, the same was not taken in the written statement filed before the trial court. in the circumstances, this appeal is dismissed at the admission stage.

(Prafulla C. Pant, J.)

Dt. March 21, 2006.
H. Negi